

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems)	ET Docket No. 00-258
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)	
Amendments to Parts 1, 2, 27 and 90 of the Commission's Rules to License Services in the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Government Transfer Bands)	WT Docket No. 02-8
)	
)	

To: The Commission

**COMMENTS OF ARRL, THE NATIONAL ASSOCIATION
FOR AMATEUR RADIO**

ARRL, the National Association for Amateur Radio, also known as the American Radio Relay League, Incorporated (ARRL), by counsel, hereby respectfully submits its Comments in response to the *Fourth Notice of Proposed Rule Making* (the 4th NPRM), FCC 03-134, released July 7, 2003 in the captioned proceeding. These Comments are timely filed, since the 4th NPRM was published in the Federal Register (68 Fed. Reg. 52156, *et seq.*) September 2, 2003, and these comments are tendered on the first business day following sixty days thereafter. The 4th NPRM, among other things, proposes to Amend Part 2 of the Commission's Rules to permit Federal government aeronautical mobile facilities and non-government aeronautical flight test telemetry to operate at 2390-2395 MHz, as part of the Commission's effort to reaccommodate uses displaced from 1710-1850 MHz (and otherwise), bands which were allocated to accommodate

Advanced Wireless Systems. Relative to the impact of this proposal on the Amateur Radio Service, ARRL states as follows:

1. ARRL's interest in this proceeding is solely with respect to the 2390-2400 MHz band, which is the only Amateur allocation potentially affected by the 4th NPRM. The Notice, at paragraph 2, states the Commission's proposal to rescind the recent establishment of a Wireless Communications Service (WCS) at 2385-2390 MHz, and to permit Federal and non-Federal government flight test stations to operate in the band 2385-2395 MHz. The band 2390-2400 MHz is presently allocated on a primary basis¹ to the Amateur Service, subject only to government Footnote G122, which generally allows Federal Government operations on a non-interference basis in the band 2390-2400 MHz. The 4th NPRM proposes to retain the Primary Amateur allocation at 2390-2400 MHz, but to add thereto, at 2390-2395 MHz, a co-primary mobile allocation, and to permit aeronautical mobile operation as specified above. At paragraph 59 of the 4th NPRM, the Commission states:

Under our proposal, the Amateur Service would retain its current primary allocation at 2390-2400 MHz, but would be required to share the lower 5 megahertz with new Federal and non-Federal government operations on a co-primary basis. We do not believe that such sharing would have a significant impact on amateur operations. Under its band plan, the Amateur (sic) Radio Relay League ("ARRL") has designated the 2390-2396 MHz segment for use by "Fast Scan TV" which is a form of Amateur Television ("ATV") (footnote omitted). However, there are numerous other bands designated for ATV... Thus, because we believe that ATV use of the 2390-2395 MHz segment is relatively light and because aeronautical telemetry use is generally at remote facilities, we anticipate that Federal aeronautical mobile and non-Federal government aeronautical telemetry use of the 2390-2395 MHz segment will not significantly impact amateur use of this spectrum. We propose to amend Section 97.303 of our amateur rules to reflect this spectrum sharing

¹ *Allocation of Spectrum Below 5 GHz Transferred From Federal Government Use*, First Report and Order and Second Notice of Proposed Rule Making, 10 FCC Rcd. 4769 (1994).

proposal (citation omitted). We solicit comment on whether limits should be imposed on the amateur and/or mobile services in order to enhance spectrum sharing; if limits are necessary, we seek comment on what limits we should adopt.

2. Of the proposal to allow Aeronautical mobile operation at 2390-2395 MHz relative to the current and planned future Amateur uses,² ARRL is generally of the view that such operation can be accommodated. Earlier in this proceeding, ARRL filed comments³ in response to the Commission's earlier consideration of 2390-2400 MHz as a candidate band for advanced wireless systems. While the Commission wisely avoided the obvious incompatibilities of commercial operation in that band, the door was left open for accommodation of displaced, non-commercial, compatible uses which would not disrupt Amateur operation in the band. Indeed, the Commission is obligated by the 1993 Omnibus Budget Reconciliation Act⁴ to avoid excessive disruption of Amateur operation in bands reallocated from Federal Government use to commercial use, and has apparently recognized that which NTIA has stated repeatedly: that the Amateur Service has substantial difficulties sharing with commercial licensed services. The 2390-2400 MHz band is one such segment. Indeed, in the *Report From the Federal Communications Commission to Ronald H. Brown, Secretary, U.S. Department of Commerce, Regarding the Preliminary Spectrum Allocation Report*, FCC 94-213, released August 9, 1994, the Commission stated, at page 17 thereof (with respect to 2390-2400 MHz), that any reallocation of that band to commercial or local government use could cause serious disruption to Amateur Service use of the band.

² As to the current Amateur uses of this band, it is noteworthy that the ARRL band plans are national band plans, subject to local modifications and changes. Fast-scan television, therefore, being listed in the ARRL Band Plan for the 2390-2396 MHz segment, is not an exhaustive recitation of Amateur uses of this band, by any means. Wideband, high-speed data is also a developing use in this segment.

3. The same considerations, however, do not necessarily appertain to sharing between the Amateur Service and Federal government uses.⁵ ARRL has anticipated for some time the possibility of sharing at 2390-2400 MHz with displaced Federal facilities. In its October 11, 2001 Comments in this proceeding, ARRL noted that the 2390-2400 MHz band had been identified as a possible band for reaccommodation of displaced Federal users. ARRL stated, at page 10 of those Comments, that:

“(a)s a general matter, the Amateur Service and the Federal Government are, and have always been, compatible sharing partners. While ARRL would urge the Commission...not to make any allocation of the 2390-2400 MHz band for commercial purposes, it is not opposed to the addition of displaced Federal Government uses at 2390-2400 MHz, if such is determined necessary, and if the alternative is to make a commercial allocation at 2390-2400 MHz.

In its reply comments, filed November 8, 2001, ARRL stated that it agreed with the Cellular Telecommunications and Internet Association that relocated government incumbents in the AWS bands might be accommodated at 2390-2400 MHz, sharing compatibly with the Amateur Service. ARRL asked the Commission to conduct the necessary compatibility studies together with NTIA to determine which Government services might be compatible and which might not. While the Commission has not, apparently, conducted any compatibility studies, ARRL is confident that the co-Primary allocations envisioned for 2390-2395 MHz will, in the end, prove compatible, provided

³ See, ARRL Comments dated October 11, 2001, in response to the *Memorandum Opinion and Order and Further Notice of Proposed Rule Making*, FCC 01-224, released August 20, 2001.

⁴ 47 U.S.C. §§ 923(c)(1)(C)(iii)

⁵ In its *Final Spectrum Allocation Report*, NTIA Special Publication 95-32, February, 1995 at Appendix B, NTIA explained the phenomenon as follows:

Sharing between Federal Government users and the amateur service has been successful largely because Federal operations are generally located outside of highly populated areas (citation omitted). It is very unlikely that the Amateur Service will enjoy an analogous situation with a commercial or other private sector service...

that there is some active frequency coordination involved. This is especially true with respect to non-government flight test telemetry. Though conducted in remote areas, the potential for interference is not nominal under all circumstances. ARRL expects that the Commission will determine that ongoing coordination efforts as between ARRL and the Aeronautical Flight Test RadioCoordination Council (AFTRCC) are in the public interest and should be conducted. ARRL is familiar with AFTRCC and its expertise in coordination of periodic, itinerant uses in bands allocated to flight test telemetry, and looks forward to cooperative coordination efforts in this band.

4. If active coordination efforts are conducted between AFTRCC and ARRL, it does not appear necessary to impose any restrictions on Amateur or mobile use of the 2390-2395 MHz band. This is especially true inasmuch as flight test telemetry is conducted in specific remote locations. ARRL would propose to conduct notifications with AFTRCC as necessary for amateur operations within certain geographic areas, and would expect AFTRCC to cooperate in most instances, given the additional bands for flight test telemetry that now exist. Similarly, if the proposed amateur use within an area in close geographic proximity to flight test locations can be accommodated in an alternative band or segment, the Amateur operations can be expected to be moved as necessary to avoid interference.

5. For the above reasons, ARRL is of the view that government aeronautical mobile operations and non-government flight test telemetry can be accommodated at 2390-2395 MHz without substantially reducing the availability of this band for Amateur operations in the entire 2390-2400 MHz band. A co-Primary allocation in the 2390-2395 MHz segment as proposed appears workable, and ARRL is willing to conduct necessary,

ongoing frequency coordination efforts (with the help and database management of local or regional amateur radio coordination groups where available) in order to make such an allocation work.

Therefore, the foregoing considered, ARRL, the National Association for Amateur Radio, respectfully recommends that the Commission proceed with the allocations proposed in the 4th NPRM, but that the Commission also specifically affirm the need for cooperative frequency coordination efforts as between Federal and non-Federal government flight test telemetry and other aeronautical mobile uses in the 2390-2395 MHz band.

Respectfully submitted,

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